

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Promoting Expanded Opportunities for Radio)	ET Docket No. 10-236
Experimentation and Market Trials under Part)	
5 Of the Commission's Rules and)	
Streamlining Other Related Rules)	
)	
2006 Biennial Review of Telecommunications)	ET Docket No. 06-105
Regulations – Part 2 Administered by the)	
Office Of Engineering and Technology (OET))	

To: The Commission

**REPLY COMMENTS OF THE
SEMICONDUCTOR INDUSTRY ASSOCIATION**

The Semiconductor Industry Association (SIA) submits these reply comments in the above-captioned matter. SIA is the voice of the U.S. semiconductor industry, America's largest export industry over the last five years and a bellwether of the US economy. Semiconductor innovations form the foundation for America's \$1.1 trillion dollar technology industry affecting a U.S. workforce of nearly 6 million. Founded in 1977 by five microelectronics pioneers, SIA unites over 60 companies that account for 80 percent of the Nation's semiconductor production. SIA seeks to strengthen US leadership in semiconductor design and manufacture by working with Congress, the Administration and other industry groups. SIA works to encourage policies and regulations that fuel innovation, propel business and drive international competition in order to maintain a thriving semiconductor industry in the United States.

SIA joins the Technology Industry Association (TIA) in commending the FCC for taking the initiative to improve current FCC regulations, which unnecessarily stifle innovation and economic growth because of their complexity and apparent inconsistencies. Specifically, with TIA, we consider these regulations especially counterproductive when applied to Evaluation Kits, which are intended as tools to promote experimentation and help electronics experts create new and useful technologies and products. We commend the FCC's initiative in proposing targeted modifications to its rules and procedures, and

specifically, we agree with the general approach to Evaluation Kits that the FCC articulated in Section 67 of its proposed rulemaking; namely:

"To remedy this situation, we propose to modify Section 2.803 of the rules to allow the sale of these evaluation kits so long as notice stating that the component has not yet been certified is provided to any buyer."

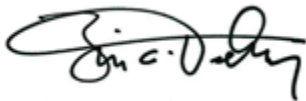
We also observe with TIA (in Section IV of its submission) that, despite the statements in Section 67 of the NPRM, not all evaluation kits have heretofore been considered contrary to the existing rules. Our view is that Evaluation kits that qualify as digital device testing equipment are exempt from most regulation. "Test equipment" is "equipment that is intended primarily for purposes of performing measurements or scientific investigations [and] includes, but is not limited to, field strength meters, spectrum analyzers, and modulation monitors."

In addition, we point out that, because of the nature of Evaluation Kits and their use by experts, they do not present the same risks to the environment as do final products.

With TIA, the SIA welcomes the opportunity to work with the Commission to "find ways to permit uncertified evaluation kits to serve these traditional roles while not undercutting the goal of the equipment authorization program as a means of enabling communications without harmful interference." Further, to that end, we would propose adoption of the specific language highlighted in the text accompanying this submission.

We appreciate your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Toohey".

Brian Toohey
President
Semiconductor Industry Association

Changed sections highlighted in yellow

§ 2.803 Marketing of radio frequency devices prior to equipment authorization.

(a) Marketing, as used in this section, includes sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease.

(b) General rule. No person may market a radio frequency device unless:

(1) For devices subject to certification, the device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by §2.925 and other relevant sections in this chapter; or

(2) For devices subject to authorization under verification or Declaration of Conformity, the device complies with all applicable, technical, labeling, identification and administrative requirements; or

(3) For devices that do not require a grant of equipment authorization issued by the Commission, but which must comply with the specified technical standards prior to use, the device complies with all applicable, technical, labeling, identification and administrative requirements.

(c) Exceptions. The following marketing activities are permitted prior to equipment authorization:

(1) Activities under product development and market trials conducted pursuant to subpart F of this chapter.

(2) Limited marketing for devices that could be authorized under the current rules could be authorized under waivers of such rules that are in effect at the time of marketing; or could be authorized under rules that have been adopted by the Commission but that have not yet become effective. These devices may not be operated unless permitted by §2.805 of this part.

(i) Conditional sales contracts (including agreements to produce new products manufactured in accordance with designated specifications) are permitted between manufacturers and wholesalers or retailers provided that delivery is made contingent upon compliance with the applicable equipment authorization and technical requirements.

(ii) A radio frequency device that is in the conceptual, developmental, design or pre-production stage may be offered for sale solely to business, commercial, industrial, scientific or medical users (but not an offer for sale to other parties or to end users located in a residential environment) if the prospective buyer is advised in writing at the time of the offer for sale that the equipment is subject to the FCC rules and that the equipment will comply with the appropriate rules before delivery to the buyer or to centers of distribution.

(iii) A radio frequency device may be advertised or displayed, (e.g., at a trade show or exhibition) if accompanied by a conspicuous notice containing this language:

This device has not been authorized as required by the rules of the Federal Communications Commission. This device is not, and may not be, offered for sale or lease, or sold or leased, until authorization is obtained.

If the product being displayed is a prototype of a product that has been properly authorized and the prototype, itself, is not authorized due to differences between the prototype and the authorized product, this language may be used instead:

Prototype. Not for sale.

(iv) A radio frequency device that constitutes an evaluation kit as defined in Section 2.1 of this Chapter may be sold as a kit provided that (A) the device is designed or developed for use by product and software developers; and (B) that the following notice is included with the device:

FCC NOTICE: This kit is designed to allow (i) product developers to evaluate electronic components, circuitry, or software associated with the kit to determine whether to incorporate such items in a finished product and (ii) software developers to write software applications for use with the end product. This kit is not a finished product

and when assembled may not be resold or otherwise marketed unless all required FCC equipment authorizations are first obtained. Operation is subject to the conditions that this device not cause harmful interference to licensed radio stations and that this device accept harmful interference. Unless the assembled kit is designed to operate under Part 15, Part 18 or Part 95 of the FCC Rules, the operator of the kit must operate under the authority of an FCC license holder or must secure an experimental authorization under Part 5 of the FCC Rules.”

(C) that the device is labeled with the following legend:

For evaluation only; not FCC approved for resale

and; (D) any intentional radiator employed as part of an evaluation kit shall be designed to comply with the FCC frequency use, spurious and out-of-band emission limits and maximum power or field strength ratings applicable to final products that would employ the components or circuitry to be evaluated.

(d) Importation. The provisions of subpart K of this part continue to apply to imported radio frequency devices.

1. New Section 2.805 is added to read as follows:

§ 2.805 Operation of radio frequency devices prior to equipment authorization.

(a) General rule. A radio frequency device may not be operated prior to equipment authorization.

(b) Exceptions. Operation prior to equipment authorization is permitted under the authority of an experimental radio service authorization issued under Part 5 of this chapter or in accordance with the following provisions; however, except as provided elsewhere in this chapter, radio frequency devices operated under these provisions may not be marketed (as defined in Section 2.803(a) of this part):

(1) The radio frequency device will be operated in compliance with existing Commission rules, waivers of such rules that are in effect at the time of operation, or rules that have been adopted by the Commission but that have not yet become effective; and

(2) Operation is conducted under the authority of a service license or a grant of special temporary authority, or the radio frequency device is designed to operate under Parts 15, 18, or 95 of this chapter; and

(3) The radio frequency device will be operated for at least one of these purposes:

(i) Conducting compliance testing;

(ii) Demonstrations at a trade show provided a notice containing the wording specified in Section 2.803(c)(2)(iii) of this part is displayed in a conspicuous location on, or immediately adjacent to, the device;

(iii) Demonstrations at an exhibition conducted at a business, commercial, industrial, scientific, or medical location, but excluding locations in a residential environment, provided a notice containing the wording specified Section 2.803(c)(2)(iii) of this part is displayed in a conspicuous

location on, or immediately adjacent to, the device or all prospective buyers at the exhibition are advised in writing that the equipment is subject to the FCC rules and that the equipment will comply with the appropriate rules before delivery to the buyer or to centers of distribution; or

(iv) Evaluation of product performance and determination of customer acceptability, during developmental, design, or pre-production states provided such operation takes place at a business, commercial, industrial, scientific, or medical location, but excluding locations in a residential environment. If the product is not operated at the manufacturer's facilities, it must be labeled with the wording specified in Section 2.803(c)(2)(iii) of this part or, in the case of an evaluation kit the wording specified in Section 2.803(c)(2)(iv)(C).

(c) A manufacturer may operate its product for demonstration or evaluation purposes under the authority of a licensed service provider, provided that the licensee grants permission the manufacturer to operate in this manner and the licensee continues to remain responsible for complying with all of the operating conditions and requirements associated with its license.

(d) Importation. The provisions of subpart K of this part continue to apply to imported radio frequency devices.

2. Section 2.1204 is amended by revising (a)(3) to read as follows:

§ 2.1204 Import conditions.

(a) Radio frequency devices may be imported only if one or more of these conditions are met:

* * *

(3) The radio frequency device is being imported in limited quantities for testing and evaluation to determine compliance with the FCC Rules and Regulations, product development, or suitability for marketing. The devices will not be offered for sale or marketed. The phrase “limited quantities,” in this context means:

- (i) 2000 or fewer units, provided the product is designed, at least in part, for operation within one of the Commission's authorized radio services for which an operating license is required to be issued by the Commission; or
- (ii) 1200 or fewer units for all other products.

Section 2.1 is amended by inserting the following definitions:

Evaluation Kit: An assemblage of components, subassemblies or circuitry created by or for a component maker for the purpose of facilitating (i) end product developer evaluation of all or some of such components or (ii) the development of software to be used in an End Product.

End Product: An End Product is a completed electronic device that has received all requisite FCC approvals and is suitable for marketing in the normal course of business to end users.